

House Bill 399

Testimony of Meadow Gold Dairies

Meadow Gold Dairies is the largest distributor of dairy products in Montana. It owns and operates processing plants in Billings and Great Falls, and distributes its dairy products throughout Montana and in Wyoming. It has approximately 250 employees.

Meadow Gold submits this testimony in opposition to HB 399 which, if passed, would do away with Montana's current "12 day rule" in favor of what is commonly called "open code dating" which permits a processor to put an expiration date of its choosing on its product.

Please consider the following:

1. The 12 day rule was enacted by the State of Montana in the early 1980's and has been in effect in its current form since that time. Prior to then Montana had open code dating and the 12 day rule was enacted precisely because open code dating was not satisfactory to the State and its consumers.
2. The 12 day rule effectively assures the consumer that there will be a reasonable amount of shelf life left to consume the product after it is purchased. It essentially allocates the useful life of milk about 60 percent to commerce (processor/distributor/store) and 40 percent to the consumer.
3. Under open code dating, there is no requirement that stores remove the product from the shelf and so it is a "buyer beware" system.
4. Under open code dating, a processor's expiration date is not a consistent measure of the freshness of the product because every processor is free to set the expiration date where it chooses and the consumer has no way of knowing what that length of time is. Under open code dating, the length of time a processor uses for its expiration date is not necessarily an indication of freshness. The expiration date is often motivated by competitive reasons in order to cause the product to appear fresher relative to a competitor's product even though the quality of the milk is the same. Under the 12 day rule the code date is always

12 days out from pasteurization so the consumer has a consistent basis to know the age of the product.

5. The 12 day rule does not contribute to waste. In fact, in Meadow Gold's experience the percentage of dated product is greater in its Wyoming market with open code dating than it is in Montana. The vast majority of milk by volume is sold through the major supermarkets which depend on repeat business. In Meadow Gold's memory, no major store has attributed dated product to the 12 day rule. Milk is a perishable commodity and dated product is going to exist under any system.

6. The 12 day rule does not limit or disadvantage out-of-state competition. The 12 day rule allows 288 hours to get a product sold. For example, the travel time from Spokane to Montana takes less than 1 percent of that allotted time and the distance to Missoula is no greater than the same travel time and distance to Missoula for domestic processors.

7. The status quo needs to be considered. For over 30 years the Montana consumer has conformed their shopping habits to Montana's "sell by" date system. From their experience the Montana consumer is accustomed to having at least 10 days after the sell by date in which to consume the product. If Montana adopts open code dating, the consumer has little or no time to consume the product after the expiration date. Changing the system, without a corresponding massive education campaign, is going to result in some unpleasant surprises to consumers. Is the State willing to undertake the cost of that education campaign?

8. Meadow Gold opposes open code dating because it believes the consumers are much more likely to have a satisfying purchase experience of milk under the 12 day rule. Milk competes with all other beverages for its part of the market share. If any consumer has an unpleasant experience because the milk product becomes stale or rancid it splashes over on the entire industry. It hurts Meadow Gold and it hurts the entire Montana dairy industry.